

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Case No. 1:18-CV-68
	§	
UNITED STATES OF AMERICA, <i>et al.</i> ,	§	
	§	
Defendants,	§	
	§	
and	§	
	§	
KARLA PEREZ, <i>et al.</i> ,	§	
	§	
Defendant-Intervenors,	§	
	§	
and	§	
	§	
STATE OF NEW JERSEY,	§	
	§	
Defendant-Intervenor.	§	

**DEFENDANT-INTERVENORS’ OPPOSITION TO FEDERAL DEFENDANTS’
MOTION FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFFS’ AMENDED
COMPLAINT**

Defendant-Intervenors Karla Perez, *et al.* (“Defendant-Intervenors”) respectfully request that the Court deny the United States of America, *et al.* (“Federal Defendants”)’s July 27, 2018, Motion for Extension of Time to Respond to Plaintiffs’ Amended Complaint, Dkt. 272.

Federal Defendants are already in default of this Court’s order requiring them to respond to Plaintiffs’ amended complaint by July 23, 2018. *See* Dkt. 117. They previously sought to further enlarge their time to respond through a second extension request they characterized as “unopposed,” notwithstanding their failure to confer that request with Defendant-Intervenors, who are the parties truly adverse to them. The Court denied that motion on July 23, 2018, for

failure to comply with the requirement to confer, *see* Dkt. 240, which meant that the Federal Defendants' Answer was due that day. Federal Defendants nevertheless waited *three days past the Court's filing deadline* to confer with Defendant-Intervenors about a renewed extension request, and after learning that Defendants-Intervenors would oppose that request waited another day before filing their motion. On the grounds of Federal Defendants' delay alone, the Court should deny it. This Court does not allow self-granted extensions. *See* J. Hanen Rules of Civil Procedure, 6.F ("A motion . . . filed late, and not accompanied by a motion for leave will be stricken.").

Second, Federal Defendants' request to extend their time to answer Plaintiffs' Amended Complaint is an obvious attempt to deprive Defendant-Intervenors of further support for their Motion to Dismiss and opposition to Plaintiffs' motion for a preliminary injunction. In Defendant-Intervenors' opposition to Federal Defendants' previous motion, Defendant-Intervenors explained that the Federal Defendants' Answer was relevant to the issues presently being briefed before the Court, including the absence of a genuine controversy between Plaintiffs and the Federal Defendants. *See* Dkt. 168. The Federal Defendants' further delay in renewing their motion represents a clear attempt to unilaterally grant themselves an extension that would deprive Defendant-Intervenors of the ability to cite the Federal Defendants' Answer, which was the grounds Defendant-Intervenors identified as the basis for their initial opposition. As the Court is aware, post-discovery response briefs were originally due on Friday, July 27, 2018. By waiting until July 27, 2018, to file their motion, the Federal Defendants ensured that it would not be ruled upon, and no Answer would be filed, before Defendant-Intervenors' response brief was originally due.

As extended, response briefs are now due on August 3, 2018. Defendant-Intervenors offered to agree to give the Federal Defendants until August 1, 2018 to file their Answer, which would give Federal Defendants additional time to prepare their Answer, while allowing Defendant-Intervenors the opportunity to review and cite the Answer in their response brief. Tellingly, Federal Defendants have instead asked this Court to delay their filing until after a decision on Plaintiffs' motion for a preliminary injunction, or—at the earliest—four days after the close of briefing on it, and just one day prior to the hearing. While Federal Defendants assert that their “answer has no relevance” to Defendant-Intervenors' Motion to Dismiss, Dkt. 272 at 2, it is not for the Federal Defendants to decide that, in light of the fact that they oppose Defendant-Intervenors' motion. The time for Federal Defendants to file their Answer is past due. Their belated request for yet another extension should be denied, or in the alternative the date to Answer should be extended only to August 1, 2018.

CONCLUSION

For the foregoing reasons, Defendant-Intervenors respectfully request that the Court deny Federal Defendants' untimely motion for an extension of time to file their Answer.

Dated: July 29, 2018

Respectfully Submitted

**MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL FUND**

By: /s/ Nina Perales

Nina Perales (Tex. Bar No. 24005046);
(SD of Tex. Bar No. 21127)

Attorney-in-Charge

Celina Moreno (Tex. Bar No. 24074754)
(SD of Tex. Bar No. 2867694)

Jack Salmon (Tex. Bar No. 24068914)
(SD of Texas Bar No. 1130532)

Alejandra Ávila (Tex. Bar No. 24089252)
(SD of Tex. Bar No. 2677912)

Ernest I. Herrera (Tex. Bar No. 24094718);
(SD of Tex. Bar No. 2462211)
110 Broadway, Suite 300
San Antonio, Texas 78205
Phone: (210) 224-5476
Facsimile: (210) 224-5382
Email: nperales@maldef.org

Denise Hulett
Mexican American Legal Defense and
Educational Fund
1512 14th Street
Sacramento, CA 95814
Phone: (916) 444-3031
Email: dhulett@maldef.org
(Admitted pro hac vice)

Priscila Orta
Mexican American Legal Defense and
Educational Fund
11 East Adams, Suite 700
Chicago, IL 60603
Tel: (312) 427-0701
Email: porta@maldef.org
(Admitted pro hac vice)

ROPES & GRAY LLP

Douglas H. Hallward-Driemeier
2099 Pennsylvania Ave NW
Washington, DC 20006-6807
(202) 508-4600
(202) 508-4776 (direct dial)
Douglas.Hallward-
Driemeier@ropesgray.com
(pro hac vice application pending)

**GARCÍA & GARCÍA,
ATTORNEYS AT LAW P.L.L.C.**

Carlos Moctezuma García
(Tex. Bar No. 24065265)
(SD of Tex. Bar No. 1081768)
P.O. Box 4545
McAllen, TX 78502
Phone: (956) 630-3889
Facsimile: (956) 630-3899
Email: cgarcia@garciagarcialaw.com

Attorneys for Defendant-Intervenors

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on the 29th day of July, 2018, I electronically filed the above and foregoing document using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Nina Perales

Nina Perales